



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY**  
REGION 2  
290 BROADWAY  
NEW YORK, NY 10007-1866

OCT - 5 2004

Mr. Jeffrey A. Myers, P.E., Director  
Bureau of Water Assessment and Management  
Division of Water  
New York State Department of  
Environmental Conservation  
625 Broadway  
Albany, NY 12233-3502

Dear Mr. Myers:

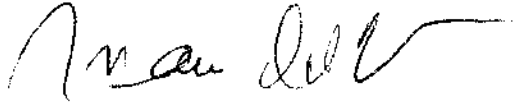
This letter documents agreement between the New York State Department of Environmental Conservation (NYSDEC) and the United States Environmental Protection Agency, Region 2 (EPA) in regards to NYSDEC's final Nutrient Standards Plan. NYSDEC submitted the final version of its Nutrient Standards Plan to EPA on September 29, 2004. EPA has reviewed NYSDEC's plan.

According to the plan, adoption of nutrient criteria, if established as guidance values, could be completed by the end of 2006 or early 2007, while adoption of standards could take until 2007 or 2008. NYSDEC should provide annual updates to EPA to evaluate NYSDEC's progress. Based on these progress reports, USEPA may recommend and NYSDEC may propose changes to the plan. In the event that NYSDEC significantly changes its plan, EPA will update this letter to document its agreement with the revisions.

By the end of 2004, EPA will review the progress made by NYSDEC to date and determine whether or not NYSDEC is likely to complete nutrient criteria development and adoption within the agreed upon time frames. If NYSDEC has not met the milestones laid out in the plan, EPA will evaluate whether a federal promulgation would be appropriate. At that time, if the Administrator determines that new or revised standards are necessary to meet the Clean Water Act (CWA), he may choose to exercise his discretion under section 303 of the CWA to promulgate Federal water quality criteria for nutrients applicable to surface waters within New York State. However, the nutrient criteria development workplan submitted by NYSDEC makes this possibility unlikely, and EPA will make every effort to aid NYSDEC in developing nutrient criteria in a manner consistent with its workplan. Continued cooperation and communication between EPA and NYSDEC will lead to scientifically defensible and protective nutrient criteria for New York State waters.

We are very pleased with NYSDEC's plan and appreciate the State's efforts to prepare and submit its plan in a timely manner. We look forward to continuing to work with NYSDEC in the development of these nutrient criteria for New York State.

Sincerely,

A handwritten signature in black ink, appearing to read "Mario Del Vicario", with a long horizontal flourish extending to the right.

Mario Del Vicario, Chief  
Community and Ecosystem Protection Branch

cc: Scott Stoner, NYSDEC  
Ifey Davis, OST-HECD

We are very pleased with NYSDEC's plan and appreciate the State's efforts to prepare and submit its plan in a timely manner. We look forward to continuing to work with NYSDEC in the development of these nutrient criteria for New York State.

Sincerely,

Mario Del Vicario, Chief  
Community and Ecosystem Protection Branch

cc: Scott Stoner, NYSDEC  
Ifey Davis, OST-HECD

bcc: Felix Locicero, DEPP-CEPB  
Wayne Jackson, DEPP-CEPB

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